Draft to Clerk: Approved: Clerk:

MINUTES OF THE REGULAR MEETING BOARD OF ZONING APPEALS July 13, 2006 7:30 P.M. CITY COUNCIL CHAMBERS, 10TH FLOOR CITY HALL

I. ROLL CALL

The meeting was called to order by Chairman Burgess at 7:30 p.m. Chairman Burgess read the BZA introduction. Roll call was taken.

Present:

B. Burgess

E. Horne

B. McGrain

G. Swix

A. Frederick

F. Lain

Absent:

G. Hilts

M. Mayberry

J. Siebold

Staff:

S. Stachowiak

A. A quorum of at least five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

- B. McGrain moved, seconded by A. Frederick to approve the agenda with the following changes:
 - 1. Move item number B to item number A under public hearings;
 - 2. Removal of item E; and
 - 3. The addition of "Excused Absences" under new business.

On a voice vote, the motion carried 6-0.

III. <u>HEARINGS/ACTION</u>

A. BZA-3877.06, 333 E. Michigan Avenue

This is a variance request by Eric Hart on behalf of the Lansing Center for a variance to permit a second wall sign on the building at 333 E. Michigan Avenue (Lansing Center). The proposed sign is 373 square feet in area. There is an existing 33 square foot wall sign on the building. Section 1442.24(b)(3) of the City Sign Code permits 2 wall signs with a combined area of 40 square feet in the Capitol Center District. Therefore, this is a variance request of 366 square feet to the allowable sign area. Staff recommended approval of a variance of 105.6 square feet to the sign area variance to permit the message board only.

on a finding that the modified variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mr. Hodges also stated that it may be appropriate to consider an ordinance amendment to permit additional signage for a facility of this nature.

Eric Hart, 333 E. Michigan Avenue, President of LEPFA, spoke in support of the request. He stated that the number one complaint that they receive is that people do not know what is going on at the Lansing Center. He also said that the ad panels provide an opportunity to generate revenue which reduces their subsidy from the city.

Mr. Swix asked if the intent of the sign is to draw more people into the facility. He said that if this is the case, why are the ad panels necessary.

Mr. Hart stated that the ad panels are still necessary from a revenue perspective.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Frederick stated that he can support the need for a message board sign variance on a facility of this size. He said that the BZA has approved other sign variances for large buildings in the city. However, he said that he cannot support the ad panels. Mr. Frederick stated that the strict sign standards in the downtown area are intended to prohibit signs like the ad panels.

Mr. McGrain asked if the board had the authority to approve a 167 square foot sign without having to re-notice the variance.

Mr. Frederick stated that the board could approve anything up to what was indicated in the notice. He said that there is a 200 square foot restriction in the downtown district.

Mr. Swix stated that we should obtain a legal opinion as to whether the BZA has the authority to approve a variance of over 200 square feet for signs in the downtown district.

Mr. Frederick stated that an interpretation from the Zoning Administrator would be sufficient as she is the official interpreter of the Zoning Ordinance.

Mr. Lain stated that he would be comfortable with approving a variance of 167 square feet to provide the maximum signage allowable without exceeding 200 square feet.

A. Frederick moved to approve BZA-3877.06, a variance of 167 square feet to the sign area limitation for a message board wall sign, without advertising, at 333 E. Michigan Avenue, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by F. Lain.

VOTE	YEA	NAY
Swix	х	
McGrain	х	

VOTE	YEA	NAY
Lain	х	
Horne	х	
Frederick	х	
Burgess	Х	

Motion carried, 6-0, BZA-3877.06, was approved.

B. <u>BZA-3876.06, 1316 Downey Street</u>

This is a variance request by Regina Slater for a variance to the height requirement for a front yard fence. The applicant would like to construct a six (6) foot high privacy fence in the Marquette Street front yard at 1316 Downey Street. Section 1292.03(a)(1) of the Zoning Code states that no fence shall exceed a height of three (3) feet within a front yard. Therefore, a variance of three (3) feet to the height limit for a front yard fence is being requested Staff recommended approval of the variance request with the condition that the fence is located on the applicants property and no trees are removed to accommodate the fence, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Regina Slater, 1316 Downey Street, spoke in support of her request. She said that the fence is necessary because of the noise and traffic from the duplexes that were built along Marquette Street, directly north of her house. She said that she would like to construct the fence 16 feet from the center of Marquette Street. Ms. Slater said that if she was to put the fence on the south side of the trees, it would not leave much of a rear yard.

Mr. Burgess stated that the BZA does not have the authority to approve a fence in the road right-of-way.

Mr. Frederick thanked Ms. Slater for coming to the BZA before the fence was erected.

Mr. Lain asked Ms. Downey how she knew to come to the BZA before she put up the fence.

Ms. Downey stated that she wanted to make sure that everything was legal so she asked the Zoning Administrator what the regulations were with regard to fences.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

A. Frederick moved to approve BZA-3876.06, a variance of 3 feet to the height limitation for a front yard fence at 1316 Downey Street, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the following conditions:

- 1. The fence is located on or within the property line along Marquette Street;
- 2. No trees are removed to accommodate the fence; and

3. A plaque displaying the BZA case number be placed on the fence.

Seconded by F. Lain.

VOTE	YEA	NAY
Swix	х	
McGrain	х	
Lain	х	
Horne	х	
Frederick	х	
Burgess	Х	

Motion carried, 6-0, BZA-3876.06, was approved.

C. BZA-3878.06, 5831 Oak Knoll Drive

This is a variance request by Gary Taylor for variances to construct an attached garage on the south side of the house and a deck on the east side of the house at 5831 Oak Knoll Blvd. The proposed garage would have a side yard setback of 5 feet and the proposed deck would have a rear yard setback of 21.5 feet at its nearest points to the affected lot lines. Section 1248.08 of the Zoning Ordinance requires a side yard setback of 6 feet and Section 1248.09 requires a rear yard setback of 30 feet in the "A" Residential District. Variances of 1 foot to the side yard setback requirement and 8.5 feet to the rear yard setback requirement are therefore, being requested. Staff recommended approval of the variance request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Gary Taylor, 5831 Oak Knoll Drive, spoke in support of his request. He said that the deck would provide a recreational opportunity on the lot that otherwise could not be obtained because there is a valley in the back of his lot. He said that his is one of the most shallow lot in the plat.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. McGrain stated that the depth of the lot and the valley behind the house presents a sufficient practical difficulty. He said that based upon these factors, he could support the variance.

Mr. Frederick agreed with Mr. McGrain.

B. McGrain moved to approve BZA-3878.06, a variance of 1 foot to the side yard setback requirement and 8.5 feet to the rear yard setback requirement to permit an attached garage on the south side of the house and a deck on the east side of the house at 5831 Oak Knoll Drive, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by G. Swix.

VOTE	YEA	NAY
Swix	х	
McGrain	х	
Lain	х	
Horne	х	
Frederick	х	
Burgess	х	

Motion carried, 6-0, BZA-3878.06, was approved.

D. <u>BZA-3879.06, 2319 Sunnyside Drive</u>

This is a variance request by Casey & Mary McCartney for a variance to construct a 12' x 20' carport that would be attached to the existing garage at 2319 Sunnyside Avenue. The proposed carport would have a rear yard setback of 23 feet at its nearest point to the rear lot line. Section 1248.09 of the Zoning Ordinance requires a rear yard setback of 30 feet in the "A" Residential District. A variance of 7 feet to the rear yard setback requirement is therefore, being requested. Staff recommended approval of the variance request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Randy Seidal, representing Casey & Mary McCarthy of 2319 Sunnyside Drive, spoke in support of the variance. He said that the shape of the lot is presenting a practical difficulty in meeting the rear yard setback.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. McGrain stated that this is a uniquely shaped lot which presents a practical difficulty in meeting the setback requirements.

Mr. Lain stated that he could support the request as long as the carport is built in such a way that it complements the character of the house.

A. Frederick moved to approve BZA-3879.06, a variance of 7 feet to the rear yard setback requirement to permit a 12' x 20' carport that would be attached to the existing garage at 2319 Sunnyside Drive, on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the condition that the carport be compatible with the character of the house and garage. Seconded by E. Horne.

VOTE	YEA	NAY
Swix	Х	

VOTE	YEA	NAY
McGrain	х	
Lain	Х	
Horne	Х	
Frederick	х	
Burgess	Х	

Motion carried, 6-0, BZA-3879.06, was approved.

VI. OLD BUSINESS

- A. Rules of Procedure No action
- B. BZA-3817.04, 1014 S. Pennsylvania Avenue No action

VII. PUBLIC COMMENT

Mr. Ramiro Torez, 718 Durant Street, expressed concerns about the Irish Pub at 1910 W. Saginaw Highway. He said that there is a damaged fence on the property where the parking lot is being considered. He stated that there is drug dealing, tires squealing and other problems occurring at the Irish Pub property. He also spoke about vandalism in the area caused by patrons of the Irish Pub. He is opposed to giving the Irish Pub the authority to expand when there are so many existing problems with this business.

Ms. Horne stated that Mr. Torez should contact the police department about the vandalism and drug dealing. She also suggested contacted the neighborhood organization in the area.

Mr. Frederick asked that staff contact the police department and report the concerns expressed by Mr. Torez.

Ms. Horne also suggested contacting the City Attorney's Office about the liquor license for the Irish Pub.

VIII. APPROVAL OF MINUTES

A. Minutes of Regular Meeting held June 8, 2006

A. Frederick moved, seconded by F. Lain to approve the minutes of June 8, 2006 with the following correction:

Page 4, paragraph 4, change "Mr. Horne" to "Ms. Horne".

On a voice vote, the motion carried unanimously, 6-0.

IX. NEW BUSINESS

A. Excused Absences

Mr. Burgess stated that Mr. Seibold's term has expired and he is no longer interested in serving.

Mr. Lain asked that the appropriate departments be notified that Mr. Siebold is no longer serving as a member of the board.

- B. McGrain moved, seconded by E. Horne to grant an excused absent to F. Lain for the June 8, 2006 meeting. On a voice vote, the motion carried unanimously, 6-0.
- B. McGrain moved, seconded by F. Lain to grant an excused absent to M. Mayberry for the July 13, 2006 meeting. On a voice vote, the motion carried unanimously, 6-0.
- **B.** Mr. Frederick stated that he would bring the proposed sign code amendment to the Planning Board for discussion and initiation.

X. ADJOURNMENT AT 8:50 p.m.

Respectfully submitted,
Susan Stachowiak, Zoning Administrator